

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	No. 05 - 00021-01-CR-W-GAF
	)	
Plaintiff,	)	COUNT ONE
	)	
v.	)	Conspiracy to Sell Counterfeit
	)	and Illegally Imported Drugs
JULIO CESAR CRUZ, a/k/a	)	
RICARDO GARCIA, a/k/a	)	18 U.S.C. § 371
R. J. GARCIA,	)	NMT 5 Years Imprisonment
[DOB 11/08/62]	)	NMT \$250,000 Fine
	)	NMT 3 years supervised release
Defendant.	)	\$100 Special Assessment
	)	Order of Restitution
	)	Class E felony
	)	
	)	COUNTS TWO and THREE
	)	
	)	Sale of Counterfeit Drugs
	)	
	)	21 U.S.C. §§ 331(i)(3) and 333(a)(2)
	)	NMT 3 Years Imprisonment
	)	NMT \$250,000 Fine
	)	NMT 3 years supervised release
	)	\$100 Special Assessment
	)	Order of Restitution
	)	Class E felony
	)	
	)	Maximum Punishment if
	)	Convicted of All Counts:
	)	
	)	NMT 11 Years Imprisonment
	)	NMT \$750,000 Fine
	)	NMT 3 years supervised release
	)	\$300 Special Assessment
	)	Order of Restitution

## INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

### COUNT ONE

(Conspiracy to Sell Counterfeit and Illegally Imported Drugs)

#### Background

At all times material and relevant to this Information:

1. Lipitor was a prescription drug product that had been approved by the United States Food and Drug Administration (FDA) for distribution within the United States.

2. Pfizer Ireland Pharmaceuticals and Pfizer, Inc. (Pfizer) had and has the exclusive lawful right to manufacture Lipitor for distribution within the United States.

3. The name "Lipitor" was and is a trademark owned by Pfizer and is registered on the principal register in the United States Patent and Trademark Office.

#### The Conspiracy and Its Objects

4. Beginning at a time unknown to the grand jury, but by no later than on or about February 2002, and continuing until at least on or about April 2003, in Kansas City, Jackson County, within the Western District of Missouri and elsewhere, defendant Julio Cesar Cruz, a/k/a Ricardo Garcia, a/k/a R. J. Garcia (Cruz) did unlawfully, willfully and knowingly combine, conspire and agree with others known and unknown to the Grand Jury to: (a) commit offenses against the United States, that is, sell counterfeit, misbranded, and illegally imported drugs, in violation of the

Federal Food, Drug and Cosmetic Act, Title 21, United States Code, Sections 301 et seq., and (b) defraud the FDA and the United States Customs Service, both agencies of the United States.

5. To effect the purpose of the conspiracy, its members, by mutual agreement and with the intent to defraud and mislead, would and did: cause the manufacture, importation, and labeling of certain drug products; cause the misbranding and counterfeiting of certain drug products; and sell certain misbranded and counterfeited drug products.

Manner and Means By Which The Conspiracy Was Carried Out

6. The members of the conspiracy used various manners and means to effect the object and purpose of the conspiracy, including but not limited to the following:

a. It was a part of the conspiracy that its members also would and did cause genuine Lipitor tablets not intended for sale in the United States to be illegally imported into the United States (“illegally imported tablets” or “diverted tablets”) by, among other things, making false and fraudulent representations to the United States Customs Service.

b. It was further a part of the conspiracy that its members would and did purchase various chemicals to be used in manufacturing counterfeit tablets intended to be similar to genuine Lipitor tablets.

c. It was part of the conspiracy that its members would and did purchase punches and dies to be used in manufacturing counterfeit tablets intended to be similar to genuine Lipitor tablets.

d. It was further a part of the conspiracy that its members would and did ship said punches, dies, and chemicals to locations outside the United States for the purpose of setting up a drug manufacturing facility in a foreign country.

e. It was further a part of the conspiracy that its members would and did cause the manufacture, in a foreign country, of counterfeit tablets similar to genuine Lipitor tablets (“counterfeit tablets”).

f. It was further a part of the conspiracy that its members would and did cause the importation of said counterfeit tablets into the United States by, among other things, making false and fraudulent representations to the United States Customs Service.

g. It was further a part of the conspiracy that its members would and did travel to foreign countries in connection with the illegal manufacture and illegal importation of said counterfeit, illegally imported and diverted tablets.

h. It was further a part of the conspiracy that its members would and did cause the manufacture in the United States of counterfeit labels that were intended to be similar to the genuine labels on bottles containing genuine Lipitor tablets.

i. It was further a part of the conspiracy that its members would and did sell and attempt to sell the counterfeit, illegally imported and diverted tablets to drug wholesalers in the United States.

j. It was further a part of the conspiracy that its members would and did defraud the FDA by selling the counterfeit, illegally imported and diverted tablets in the United States as genuine Lipitor tablets intended for sale in the United States.

#### Overt Acts

7. In furtherance of the conspiracy to traffic in counterfeit and illegally imported drugs and to accomplish the objects of the conspiracy, one or more members of the conspiracy committed and caused to be committed various overt acts within the Western District of Missouri and elsewhere, including, but not limited to, the following:

a. Sometime in 1993, Julio Cesar Cruz fraudulently obtained United States passport number 43667569, in the name of Ricardo Garcia.

b. On or about May 2002, Julio Cesar Cruz used a United States passport in the name of Ricardo Garcia to travel outside the United States to Panama.

c. On or about June 2002, Julio Cesar Cruz used a United States passport in the name of Ricardo Garcia to travel outside the United States to Costa Rica.

d. On or about March 2003, Julio Cesar Cruz used a United States passport in the name of Ricardo Garcia to travel outside the United States to the Bahamas.

e. On or about April 2003, Julio Cesar Cruz fraudulently obtained United States passport number 46861857 in the name of Ricardo Garcia and, to establish his identity and citizenship, he used United States passport number 43667569 which he previously had obtained by fraud.

f. On or about April 2003, Julio Cesar Cruz used United States passport number 46862857 in the name of Ricardo Garcia to travel outside the United States to Costa Rica.

g. On or about May 2003, Julio Cesar Cruz used United States passport number 46862857 in the name of Ricardo Garcia to travel outside the United States to Costa Rica.

h. On or about June 2002, various members of the conspiracy purchased excipients to be used in the manufacture of counterfeit Lipitor and caused the excipients to be shipped to a location in Costa Rica.

i. On or about August 2002, various members of the conspiracy ordered punches and dies from a company in the St. Louis, Missouri area, to be used for the manufacture of 10 mg. and 20 mg. counterfeit Lipitor tablets.

j. On or about September 2002, various members of the conspiracy caused the punches and dies purchased from the St. Louis, Missouri area company to be shipped to Costa Rica via Miami, Florida.

k. On or about October 2002, various members of the conspiracy purchased excipients to be used in the manufacture of counterfeit Lipitor and caused the excipients to be shipped to a location in Costa Rica.

l. On three separate occasions in November 2002, various members of the conspiracy purchased excipients to be used in the manufacture of counterfeit Lipitor and caused the excipients to be shipped to a location in Costa Rica.

m. On or about January 2003, various members of the conspiracy purchased excipients to be used in the manufacture of counterfeit Lipitor and caused the excipients to be shipped to a location in Costa Rica.

n. On or about March 2003, various members of the conspiracy purchased excipients to be used in the manufacture of counterfeit pharmaceutical drugs and caused the excipients to be shipped to a location in Honduras.

o. On or about April 2003, various members of the conspiracy purchased excipients to be used in the manufacture of counterfeit pharmaceutical drugs and caused the excipients to be shipped to a location in Honduras.

p. On or about October and November 2002, various members of the conspiracy ordered and purchased counterfeit drug labels from a company in the

greater Miami, Florida area, with the intent to place the counterfeit labels on bottles that contained the illegally imported and diverted tablets as well as bottles that contained the counterfeit tablets.

q. On or about November 18, 2002, in excess of \$1.3 million was deposited into a bank account held in the name of Pharma Medical at a bank in Tennessee, which money represented proceeds from the sale of the counterfeit, illegally imported, and diverted tablets by the members of the conspiracy.

r. On or about November 27, 2002, in excess of \$1.3 million was deposited into a bank account held in the name of Pharma Medical at a bank in Tennessee, which money represented proceeds from the sale of the counterfeit, illegally imported, and diverted tablets by members of the conspiracy.

s. On or about December 9, 2002, in excess of \$1.2 million was deposited into a bank account held in the name of Pharma Medical at a bank in Tennessee, which money represented proceeds from the sale of the counterfeit, illegally imported, and diverted tablets by members of the conspiracy.

t. On or about December 11, 2002, in excess of \$1.3 million was deposited into a bank account held in the name of Pharma Medical at a bank in Tennessee, which money represented proceeds from the sale of the counterfeit, illegally imported, and diverted tablets by members of the conspiracy.

u. On or about December 23, 2002, in excess of \$2.1 million was deposited into a bank account held in the name of Pharma Medical at a bank in



Tennessee, which money represented proceeds from the sale of the counterfeit, illegally imported, and diverted tablets by members of the conspiracy.

v. On or about January 9, 2003, in excess of \$2 million was deposited into a bank account held in the name of Pharma Medical at a bank in Tennessee, which money represented proceeds from the sale of the counterfeit, illegally imported, and diverted tablets by members of the conspiracy.

w. On or about February 4, 2003, in excess of \$1.2 million was deposited into a bank account held in the name of Pharma Medical at a bank in Tennessee, which money represented proceeds from the sale of the counterfeit, illegally imported, and diverted tablets by members of the conspiracy.

x. On or about July 31, 2002, the members of the conspiracy used Pharma Medical to purchase in excess of \$1.1 million worth of genuine Lipitor manufactured for distribution in a South American country, with the intent to illegally import the South American Lipitor into the United States.

y. On or about August 27, 2002, the members of the conspiracy used Pharma Medical to purchase in excess of \$1 million worth of genuine Lipitor manufactured for distribution in a South American country, with the intent to illegally import the South American Lipitor into the United States.

z. On or about October 2, 2002, the members of the conspiracy used Lighthouse Investments to purchase in excess of \$1.7 million worth of genuine

Lipitor manufactured for distribution in a South American country, with the intent to illegally import the South American Lipitor into the United States.

aa. On or about October 25, 2002, the members of the conspiracy used an import and export company to purchase in excess of \$3.2 million worth of genuine Lipitor manufactured for distribution in a South American country, with the intent to illegally import the South American Lipitor into the United States.

bb. On or about December 5, 2002, the members of the conspiracy used an import and export company to purchase in excess of \$1.3 million worth of genuine Lipitor manufactured for distribution in a South American country, with the intent to illegally import the South American Lipitor into the United States.

cc. On or about November 15, 2002, Albers Medical paid in excess of \$1.4 million to purchase the counterfeit, illegally imported, and diverted tablets from members of the conspiracy.

dd. On or about November 26, 2002, Albers Medical paid in excess of \$1.4 million to purchase the counterfeit, illegally imported, and diverted tablets from members of the conspiracy.

ee. On or about December 3, 2002, Albers Medical paid in excess of \$1.4 million to purchase the counterfeit, illegally imported, and diverted tablets from members of the conspiracy.

ff. On or about December 10, 2002, Albers Medical paid in excess of \$1.4 million to purchase the counterfeit, illegally imported, and diverted tablets from members of the conspiracy.

gg. On or about December 20, 2002, Albers Medical paid in excess of \$2.2 million to purchase the counterfeit , illegally imported, and diverted tablets from members of the conspiracy.

hh. On or about January 9, 2003, Albers Medical paid in excess of \$2.1 million to purchase the counterfeit, illegally imported, and diverted tablets from members of the conspiracy.

ii. On or about January 30, 2003, Albers Medical paid in excess of \$1.3 million to purchase the counterfeit, illegally imported, and diverted tablets from members of the conspiracy.

jj. On or about February 24, 2003, Albers Medical paid in excess of \$1.6 million to purchase the counterfeit, illegally imported, and diverted tablets from members of the conspiracy.

All in violation of Title 18, United States Code, Section 371.

## COUNT TWO

### (Sale of Counterfeit Drugs)

1. The factual allegations in paragraphs 1 through 7 of Count One are incorporated herein by reference.

2. Between on or about December 2002 and March 2003, within the Western District of Missouri and elsewhere, the defendant, Julio Cesar Cruz, with the intent to defraud and mislead, sold and caused the sale in interstate commerce of certain articles of drugs, namely over four million tablets of purported Lipitor, all of which were counterfeit drugs within the meaning of Title 21, United States Code, Section 321(g)(2), in that, without proper authorization, said tablets bore the trademark, trade name and other identifying marks of genuine Lipitor and were thereby falsely represented to be genuine Lipitor.

All in violation of Title 21, United States Code, Sections 331(i)(3) and 333(a)(2) and Title 18, United States Code, Section 2.

## COUNT THREE

### (Sale of Counterfeit Drugs)

1. The factual allegations in paragraphs 1 through 7 of Count One are incorporated herein by reference.

3. Between on or about December 2002 and March 2003, within the Western District of Missouri and elsewhere, the defendant, Julio Cesar Cruz, with the intent to defraud and mislead, did sell or cause the sale in interstate commerce

of certain articles of drugs, namely, numerous bottles containing drugs, all of which were counterfeit drugs, within the meaning of Title 21, United States Code, Section 321(g)(2), in that, without proper authorization, the labels on the bottles containing the drugs falsely stated and represented that the drugs inside the bottles were manufactured by Pfizer and said labels did not bear the name and place of business of the true manufacturer, packer or distributor of said tablets.

All in violation of Title 21, United States Code, Sections 331(i)(3) and 333(a)(2) and Title 18, United States Code, Section 2.

Dated this 21st day of January, 2005.

s/ Phillip Eugene Porter  
Phillip Eugene Porter  
Senior Litigation Counsel